

Senate File 2305 - Introduced

SENATE FILE 2305
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3135)

A BILL FOR

1 An Act relating to civil practice including liability
2 provisions and privacy rights.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **632.1 Medical records access —**
2 **personal representative for decedent.**

3 Notwithstanding section 633.3, subsection 30, for purposes
4 of obtaining a decedent's medical records or asserting
5 a decedent's rights under the federal Health Insurance
6 Portability and Accountability Act of 1996, Pub. L. No.
7 104-191, a personal representative is the first of the
8 following persons who exist when the request for medical
9 records or assertion of rights is made:

- 10 1. The executor or administrator.
- 11 2. The decedent's spouse.
- 12 3. The decedent's adult child.
- 13 4. The decedent's adult sibling.

14 Sec. 2. Section 668.11, Code 2011, is amended to read as
15 follows:

16 **668.11 Disclosure of expert witnesses in liability cases**
17 **involving licensed professionals.**

18 1. A party in a professional liability case brought against
19 a licensed professional pursuant to this chapter who intends
20 to call an expert witness of their own selection, shall
21 certify to the court and all other parties the expert's name,
22 qualifications, and the purpose for calling the expert, and
23 the element or elements of the cause of action about which the
24 expert will testify within the following time period:

25 a. The plaintiff within one hundred eighty days of the
26 defendant's answer unless the court for good cause not ex parte
27 extends the time of disclosure.

28 b. The defendant within ninety days of plaintiff's
29 certification.

30 2. If a party fails to disclose an expert pursuant to
31 subsection 1 or does not make ~~the~~ an expert available for
32 discovery, the expert shall be prohibited from testifying in
33 the action unless leave for the expert's testimony is given by
34 the court for good cause shown.

35 3. This section does not apply to court appointed experts or

1 to rebuttal experts called with the approval of the court.

2 EXPLANATION

3 This bill relates to civil practice including liability
4 provisions and privacy rights.

5 PERSONAL REPRESENTATIVE — HIPAA. The bill expands the
6 definition of personal representative for purposes of obtaining
7 a decedent's medical records or asserting a decedent's
8 rights under the federal Health Insurance Portability and
9 Accountability Act of 1996, Pub. L. No. 104-191 (HIPAA) and
10 designates the personal representative under such circumstances
11 to be the first of the following persons who exist when the
12 request for medical records or assertion of rights is made:
13 the executor or administrator; the decedent's spouse; the
14 decedent's adult child; or the decedent's adult sibling.

15 DISCLOSURE OF EXPERT WITNESSES — LIABILITY CASES —
16 PROFESSIONALS. Current law requires a party in a professional
17 liability case brought against a licensed professional who
18 intends to call an expert witness to certify to the court and
19 all parties in the case the expert's name, qualifications, the
20 purpose for calling the expert within certain time frames,
21 depending upon whether the party is the plaintiff or defendant
22 in the case. The bill requires a party who intends to call
23 an expert witness to certify to the court and all parties the
24 element or elements of the cause of action about which the
25 expert will testify.